

**EXHIBIT D**

**Gary S. Smolker E-Mail Correspondence, Dated December 14, 2020**

**Roger Higgins**

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**From:** Gary Smolker <gsmolker@aol.com>  
**Sent:** Monday, December 14, 2020 1:24 PM  
**To:** Roger Higgins; joneill@pszlaw.com  
**Subject:** Request to change summary judgment filing deadlines and hearing date

In re W.R. Grace & Co., et al. Reorganized Debtors,  
Chapter 11  
Case No. 01-01139 (AMC)  
(Jointly Administered)  
in the United States Bankruptcy Court for the District of Delaware

December 14, 2020

Mr. Higgins and Mr. O'Neil:

On September 17, Judge Chan ordered the following scheduling.

My response to pending summary judgement is due December 16, 2020.

Grace's reply to my response is due January 6, 2021.

There will be a hearing on Grace's motion for summary judgment on January 21, 2021.

I request a 14 day extension of the due date for my response; I request that we agree to change the due date for my response to Grace's motion for summary judgment from December 16 to December 30, 2020.

In turn, the due date for Grace's reply to my response will be extended 14 days from being due on January 6, 2021 to being due on January 20, 2021.

We would also need to change the currently scheduled January 21, 2021 hearing date.

I propose that we continue the hearing date 14 days -- so that instead of the hearing date being on January 21, the hearing date will be on February 4, 2021.

Alternatively, it is okay with me if we continue the hearing date from January 21, 2021 to March 25, 2021 - March 25 is the date on which my motion for sanctions is presently scheduled to take place.

Please reply by return email whether you agree to extend the hearing date on my response to Grace's motion for summary judgment from December 16 to December 30, 2020.

If you agree to change the pleading due dates and the hearing date as outlined above, please notify me by email and notify Judge Chan's Courtroom Deputy Joan Ranieri by email at [Joan\\_Ranieri@paeb.uscourts.gov](mailto:Joan_Ranieri@paeb.uscourts.gov).

Also please prepare the appropriate paperwork and file our stipulation to change pleading deadline and hearing date and an appropriate order to Judge Chan to sign in the US Bankruptcy Court in Wilmington, Delaware.

The present December 16 due date for my opposition to Grace's motion for summary judgment does not provide me with a reasonable amount of time to prepare my opposition to Grace's motion for summary judgment or to make a full presentation of my evidence and legal authorities in opposition to Grace's motion for summary judgment.

The preparation of my opposition to Grace's motion for summary judgment requires me (a) to review voluminous writings, and documents presented by Grace as part of Grace's motion for summary judgment, (b) to prepare objections to evidence proffered by Grace, (c) to review the Federal Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, (d) to review Local Bankruptcy Rules of the United States Bankruptcy Court, Delaware District (e) to review Federal Rules of Evidence, (f) to review parts of the United States Code, (g) to review the Rules of the United States District Court for the District of Delaware, (h) to of legal authorities cited by Grace, (i) to cope with Grace's failure to properly present Grace's Motion for Summary Judgment, and (j) prepare of my own opposition papers including my statement of the facts, statement of my disagreement with Grace's statements of the facts, my memorandum of points and authorities, my declaration and copies of referred to documents.

During the time given to prepare my opposition I have been burdened by having damaged lungs, by necessary efforts required to cope with the pandemic and to obey various orders

issued the by State of California, the County of Los Angeles, and the City of Los Angeles related to Covid 19.

Currently my opposition is due to be filed with the United States Bankruptcy Court in Wilmington Delaware on December 16, which means I have to deliver my papers to Federal Express by December 15 (tomorrow) in order to have them delivered to the Bankruptcy Court on Wednesday December 16 by 4:00 p.m.

Very truly yours,

Gary Smolker

Cell Phone: 310-749-9735

**Roger Higgins**

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**From:** Gary Smolker <gsmolker@aol.com>  
**Sent:** Monday, December 14, 2020 5:43 PM  
**To:** Roger Higgins  
**Cc:** jo'neill@pszjlaw.com; joneill@pszjlaw.com  
**Subject:** #2 Re: Request to change summary judgment filing deadlines and hearing date

December 14, 2020

Mr. Higgins and Mr. O'Neill:

Thank you for your prompt response to my request to extend the deadline for me to file my Opposition to Grace's Motion for Summary Judgment for 14 days, to my request for Grace to agree to extend the December 16 deadline to file my opposition to a new deadline of December 30, 2020.

Please read Judge Chan's "Judicial Practices and Procedures for Judge Ashely M. Chan."

Please pay particular attention to Judge Chan's reference to "Code of Civility of the Pennsylvania Supreme Court" and to the "American Bar Association Guidelines for Litigation Counsel."

Judge Chan subscribes to a specified level of courtroom decorum and conduct of counsel in matters pending before her.

Judge Chan subscribes to the "Code of Civility" set forth in the "Pennsylvania Supreme Court Code of Civility" and Judge Chan subscribe to the "Code of Civility" set forth in the "American Bar Association's Guidelines for Litigation Counsel."

Judge Chan and the United States District Court for the District of Delaware make it clear that the adversarial system is designed to be a truth finding process.

The United States District Court for Delaware and Judge Chan are consider it professional misconduct for an attorney to engage in conduct that is prejudicial to the administration of justice.

See United States District Court for the District of Delaware, Rule 83.6(b)(5)(d).

Then review the American Bar Association's "Model Rules for Professional Conduct" Rule 8.4 (d).

After you have familiarized yourself with those materials please get back to me.

It is my hope that the both of you and your client W.R. Grace & Co. will agree to my reasonable request to extend the deadline for the filing of my opposition to W.R. Grace's pending "Motion for Summary Judgment" from December 16 to December 30, 2020.

Very truly yours,

Gary S. Smolker

Cell Phone: 1-310-749-9735

Office Phone: 1-818-788-7290

-----Original Message-----

From: Roger Higgins <rhiggins@rogerhigginslaw.com>

To: Gary Smolker <gsmolker@aol.com>  
Cc: 'James O'Neill (jo'neill@pszjlaw.com)' <jo'neill@pszjlaw.com>  
Sent: Mon, Dec 14, 2020 4:00 pm  
Subject: RE: Request to change summary judgment filing deadlines and hearing date

Mr. Smolker,

We are in receipt of your request for yet another extension to your deadline to file a response, from December 16, 2020, to December 30, 2020.

As was discussed at the telephonic hearing on September 17, 2020, and as memorialized in the attached order (dated October 1, 2020) the form of which you consented to, you received a four-month extension to respond from the original date of August 10, 2020, until December 16, 2020.

Any further delay is unacceptable to Grace. Therefore, Grace does not consent to any such extension.

The deadline by which you must file your response is, as the order states, 4:00 pm ET, December 16, 2020.

Warmest Regards. R

Roger J. Higgins

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Judgment, and (j) prepare of my own opposition papers including my statement of the facts, statement of my disagreement with Grace's statements of the facts, my memorandum of points and authorities, my declaration and copies of referred to documents.

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